

## National Credit Union Administration

## § 712.8

(2) Sale, lease, or servicing of computer hardware or software;

(h) *Insurance brokerage or agency:*

(1) Agency for sale of insurance;

(2) Provision of vehicle warranty programs;

(3) Provision of group purchasing programs; and

(4) Real estate settlement services;

(i) *Leasing:*

(1) Personal property; and

(2) Real estate leasing of excess CUSO property;

(j) *Loan support services:*

(1) Debt collection services;

(2) Loan processing, servicing, and sales;

(3) Sale of repossessed collateral; and

(4) Real estate settlement services;

(5) Purchase and servicing of non-performing loans; and

(6) Referral and processing of loan applications for members whose loan applications have been denied by the credit union;

(k) *Record retention, security and disaster recovery services:*

(1) Alarm-monitoring and other security services;

(2) Disaster recovery services;

(3) Microfilm, microfiche, optical and electronic imaging, CD-ROM data storage and retrieval services;

(4) Provision of forms and supplies; and

(5) Record retention and storage;

(l) *Securities brokerage services;*

(m) *Shared credit union branch (service center) operations;*

(n) *Student loan origination*, including the authority to buy and sell participation interests in such loans;

(o) *Travel agency services; and*

(p) *Trust and trust-related services:*

(1) Acting as administrator for pre-paid legal service plans;

(2) Acting as trustee, guardian, conservator, estate administrator, or in any other fiduciary capacity; and

(3) Trust services.

(q) *Real estate brokerage services.*

(r) *CUSO investments in non-CUSO service providers:* In connection with providing a permissible service, a CUSO may invest in a non-CUSO service provider. The amount of the CUSO's investment is limited to the amount necessary to participate in the service provider, or a greater amount if nec-

essary to receive a reduced price for goods or services.

(s) Credit card loan origination;

(t) Payroll processing services.

[63 FR 10756, Mar. 5, 1998, as amended at 64 FR 33187, June 22, 1999; 64 FR 66361, Nov. 26, 1999; 66 FR 40578, Aug. 3, 2001; 68 FR 56551, Oct. 1, 2003; 73 FR 79312, Dec. 29, 2008; 75 FR 34621, June 18, 2010]

### § 712.6 What activities and services are prohibited for CUSOs?

*General.* CUSOs must not acquire control of, either directly or indirectly, another depository financial institution, nor invest in shares, stocks, or obligations of an insurance company, trade association, liquidity facility or similar organization, corporation, or association.

[63 FR 10756, Mar. 5, 1998, as amended at 64 FR 66361, Nov. 26, 1999]

### § 712.8 What transaction and compensation limits might apply to individuals related to both an FCU and a CUSO?

(a) *Officials and Senior Management Employees.* The officials, senior management employees, and their immediate family members of an FCU that has outstanding loans or investments in a CUSO must not receive any salary, commission, investment income, or other income or compensation from the CUSO either directly or indirectly, or from any person being served through the CUSO. This provision does not prohibit such FCU officials or senior management employees from assisting in the operation of a CUSO, provided the officials or senior management employees are not compensated by the CUSO. Further, the CUSO may reimburse the FCU for the services provided by such FCU officials and senior management employees only if the account receivable of the FCU due from the CUSO is paid in full at least every 120 days. For purposes of this paragraph (a), "official" means affiliated credit union directors or committee members. For purposes of this paragraph (a), "senior management employee" means affiliated credit union chief executive officer (typically this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g. Assistant

President, Vice President, or Assistant Treasurer/Manager) and the chief financial officer (Comptroller). For purposes of this paragraph (a), “immediate family member” means a spouse or other family members living in the same household.

(b) *Employees.* The prohibition contained in paragraph (a) of this section also applies to FCU employees not otherwise covered if the employees are directly involved in dealing with the CUSO unless the FCU’s board of directors determines that the FCU employees’ positions do not present a conflict of interest.

(c) *Others.* All transactions with business associates or family members of FCU officials, senior management employees, and their immediate family members, not specifically prohibited by paragraphs (a) and (b) of this section must be conducted at arm’s length and in the interest of the FCU.

#### §712.9 [Reserved]

#### §712.10 How can a state supervisory authority obtain an exemption for FISCUs from compliance with §712.3(d)(1), (2), and (3)?

(a) The NCUA Board may exempt FISCUs in a given state from compliance with any or all of §712.3(d)(1), (2), and (3) if the NCUA Board determines the laws in that state are equal to, or more stringent than, §712.3(d)(1), (2), and (3), and the laws and procedures available to the supervisory authority in that state are sufficient to provide NCUA with the degree of access and information it believes is necessary to evaluate the safety and soundness of FISCUs having business relationships with CUSOs owned by FISCUs in that state.

(b) To obtain an exemption, the state supervisory authority must submit a copy of the legal authority pursuant to which it secures the information required in §712.3(d)(1), (2), and (3) of this part to NCUA’s regional office having responsibility for that state, along with all procedural and operational documentation supporting and describing the actual practices by which it implements and exercises the authority.

(c) The state supervisory authority must provide the regional director with an assurance that NCUA examiners

will be provided with co-extensive authority and will be allowed direct access to CUSO books and records at such times as NCUA, in its sole discretion, may determine necessary or appropriate. For purposes of this section, access includes the right to make and retain copies of any CUSO record, as to which NCUA will accord the same level of control and confidentiality that it uses with respect to all other examination-related materials it obtains in the course of its duties.

(d) The state supervisory authority must also provide the regional director with an assurance that NCUA, upon request, will have access to copies of any financial statements or reports which a CUSO has provided to the state supervisory authority.

(e) The regional director will review the applicable authority, procedures and assurances and forward the exemption request, along with the regional director’s recommendation, to the NCUA Board for a final determination.

(f) For purposes of this section, whether an entity is a CUSO shall be determined in accordance with the definition set out in §741.222 of this chapter.

[78 FR 72549, Dec. 3, 2013]

#### §712.11 What requirements apply to subsidiary CUSOs?

(a) *FCUs investing in a CUSO with a subsidiary CUSO.* FCUs may only invest in or loan to a CUSO, which has a subsidiary CUSO, if the subsidiary CUSO satisfies all of the requirements of this part. The requirements of this part apply to all tiers or levels of a CUSO’s structure.

(b) *FISCUs investing in a CUSO with a subsidiary CUSO.* FISCUs may only invest in or loan to a CUSO which has a subsidiary CUSO, if the subsidiary CUSO complies with the following:

(1) All applicable state laws and rules regarding CUSOs; and

(2) All of the requirements of this part that apply to FISCUs, which are listed in §712.1. The requirements of this part that apply to FISCUs apply to all tiers or levels of a CUSO’s structure.

(c) For purposes of this section, a subsidiary CUSO is any entity in which a CUSO has an ownership interest of